

	MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES CHILD AND ADULT CARE FOOD PROGRAM	ISSUED	REVISED	CHAPTER	SECTION
	AT-RISK AFTER SCHOOL PROGRAMS POLICY & PROCEDURE MANUAL	7/1/03; 8/06	1/12db 3/12 sjc	10	10.3
CHAPTER Chapter 10. Complaint and Appeal Procedures		SUBJECT Filing an Appeal Request			

An independent institution or sponsoring organization can appeal any of the actions listed in Section 12.1 by filing a written request for appeal.

Filing the Request

The request for an administrative review must be submitted in writing and received by the hearing official and in the BCFNA office no later than 15 days after the date the notice of action is received by the institution. The counting of the 15 days allotted for the request to be received by the Hearing Official and the state agency begins on the fifth day after the date of mailing of the state agency notice, or on the date of e-mail or fax by the state agency, or on the date the institution receives the notice of findings, whichever is earliest. Late requests will not be accepted. Refer to the *“What to do if you decide to appeal”* flyer which is included with monitoring reports sent from the BCFNA.

The request for an appeal **must** state whether the sponsor/center wants an in-person administrative review (oral hearing) or an abbreviated administrative review (written evidence). The request for an appeal **must** be submitted and received in a timely manner. The request for an appeal must be mailed to the:

Missouri Department of Health and Senior Services
Bureau of Community Food & Nutrition Assistance
P.O. Box 570
Jefferson City, MO 65102
Fax 573-526-3679*

The appeal request must:

- Include the name, phone number, and mailing address of your institution.
- Clearly identify the findings that are being appealed, the basis of the appeal, and the remedy sought.
- Include written information to support the appeal (abbreviated review only).
- Include a copy of the notice from the State agency that gives rise to the review request.
- **State whether the participant is requesting an administrative review (in-person oral hearing) or an abbreviated administrative review (submission of written evidence).** A party or entity requesting a review may elect to have an abbreviated administrative review even though entitled to a full hearing.
- Be signed by the authorized representative of the institution and have the name and the title of the person who signed the request, if other than the authorized representative.

Notification and Scheduling of Administrative Review (in-person appeal hearing)

1. You will receive a docketing letter giving the date, time, and location of the administrative hearing by mail within days of receipt of the request.

2. Either the Missouri Department of Health and Senior Services (MDHSS) or the party requesting the review may thereafter seek a continuance (rescheduling) of the hearing. Such requests must be in writing and should state the reason for the continuance request. The continuance request must be sent to the State agency (MDHSS). Note: A request of a continuance by the appealing party may waive the right to decision within 60 days of the State agency (MDHSS) notice.
3. The Hearing Officer will notify both parties as to whether or not the continuance is granted or denied. If it is denied, the hearing will be held as originally scheduled. If it is granted, a new hearing date will be sent by the Hearing Officer. It is extremely helpful if a request for a continuance also contains a statement as to what dates for a new hearing are not available to the party requesting the continuance.
4. MDHSS has the right to file an objection to the continuance.
5. The institution can request copies of the information in the Bureau of Community Food and Nutrition Assistance's files upon which the adverse action was based.
6. **Representation by an attorney:** Missouri state law prohibits employees of a corporation (LLC or Inc.) from acting as an attorney on behalf of the employing corporation. An employee may participate in an administrative review on behalf of a corporation, but participation is limited to testimony about the relevant facts related to the appeal. A non-attorney may **not** file motions, briefs, or make legal arguments or examine witnesses.
7. MDHSS will have legal counsel representation at all in-person oral hearings.

ALL SUBMISSIONS OF WRITTEN MATERIAL MUST BE SUBMITTED BY MAIL.

***REQUESTS FOR *CONTINUANCES* MAY BE SUBMITTED BY FAX TO 573-526-3679.**